

operating plants, because delaying startup does not usually leave a plant in a condition in which it could experience undesirable transients. Thus, the issuance of NOEDs for plants attempting to start up must meet a higher threshold.

The use of enforcement discretion does not change the fact that a violation of a license requirement will occur, nor does it imply that enforcement discretion is being exercised for any violation that may have led to the violation for which the licensee requests issuance of a NOED. Where the NRC staff has chosen to issue a NOED, enforcement action is normally considered for the root causes, to the extent violations led to the noncompliance for which enforcement discretion was used.

Petitioners have provided no basis warranting a change in the Commission's policy regarding the exercise of enforcement discretion pursuant to Section VII.C. of the Enforcement Policy.

IV. Conclusion

The institution of proceedings in accordance with Section 2.206, as requested by the Petitioner, is appropriate only where substantial safety issues have been raised. See Consolidated Edison Co. of New York (Indian Point Units 1, 2, and 3), CLI-75-8, NRC 173, 175 (1975), and Washington Public Power Supply System (WPPSS Nuclear Project No. 2), DD-84-7, 19 NRC 899, 923 (1984). This is the standard I have applied to the Petition. Petitioners have not raised any substantial safety concerns regarding age-related deterioration of reactor internals, or with other parts and components at Pilgrim. To the contrary, all potential problems identified by Petitioners regarding reactor internals and components have been satisfactorily addressed by the licensee at Pilgrim. Therefore, Petitioner's request to delay startup of the Pilgrim plant is denied. Additionally, for the reasons discussed above, Petitioners request to terminate the NRC policy of issuing notices of enforcement discretion to reactor licensees is denied. Petitioner's request for a public meeting was granted.

A copy of the Director's Decision will be filed with the Office of the Secretary for the Commission to review in accordance with 10 CFR 2.206(c). As provided by Section 2.206(c), this Decision will constitute the final action of the Commission 25 days after issuance, unless the Commission, on its own motion, institutes a review of the decision within that time.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 31st day of August 1995,

William T. Russell,

Director, Office of Nuclear Reactor Regulation
[FR Doc. 95-22461 Filed 9-8-95; 8:45 am]

BILLING CODE 7590-01-P

[Docket Nos. 50-334 and 50-412]

Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, The Cleveland Electric Illuminating Company, The Toledo Edison Company, Beaver Valley Power Station, Units 1 and 2; Notice of Partial Withdrawal of Application for Amendment to Facility Operating License

The United States Nuclear Regulatory Commission (the Commission) has granted the request by Duquesne Light Company (the licensee) to withdraw a portion of its August 31, 1994, application for a proposed amendment to Facility Operating License Nos. DPR-66 and NPF-73 for Beaver Valley Power Station, Units 1 and 2, located in Beaver County, Pennsylvania.

The proposed amendment involved deletion of certain license conditions and the following changes to the technical specifications (TSs):

1. Elimination of the references to specific frequencies for each of the Technical Specification required audits.
2. Elimination of the references to reviews and audits of the Emergency Plan and Security Plan.
3. Separation of the Inservice Inspection (ISI) and Inservice Testing (IST) Programs surveillance requirements and removal of the requirement that relief requests be granted before they are implemented for both IST and ISI.
4. Editorial changes which were necessitated by a reorganization.
5. Elimination of the reference to Appendix A of 10 CFR Part 55.
6. Elimination of the requirement to perform an independent fire protection and loss prevention program inspection annually.
7. Inclusion of the Offsite Dose Calculation Manual and Process Control Program and associated implementing procedures into the list of required audits.

On May 18, 1995, the licensee submitted a letter to the NRC requesting withdrawal of the proposed changes to the TSs dealing with audits of the Beaver Valley Power Station fire protection program and withdrawal of a proposed 25-percent grace period for all audit frequencies (Item 6 of August 31, 1994 application).

The Commission has previously issued a Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing, which was published in the **Federal Register** on December 21, 1994 (59 FR 65812).

For further details with respect to this action, see the application for amendment dated August 31, 1994, and the licensee's letter of May 18, 1995, which withdrew the portion of the application for license amendment. The above documents are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC 20555 and at the B.F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Dated at Rockville, Maryland, this 31st day of August, 1995.

For the Nuclear Regulatory Commission.

Donald S. Brinkman,

Senior Project Manager, Project Directorate I-2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 95-22462 Filed 9-8-95; 8:45 am]

BILLING CODE 7590-01-P

[Docket Nos. 50-498 and 50-499]

Exemption

In the matter of Houston Lighting & Power Company, City Public Service Board of San Antonio, Central Power and Light Company, City of Austin, Texas (South Texas Project, Units 1 and 2).

I

Houston Lighting & Power Company, (the licensee) is the holder of Facility Operating License Nos. NPF-76 and NPF-80, which authorizes operation of the South Texas Project, Units 1 and 2 (STP). The operating licenses provide, among other things, that the licensee is subject to all rules, regulations, and orders of the Commission now and hereafter in effect.

The facilities consist of two pressurized water reactors at the licensee's site in Matagorda County, Texas.

II

Section III.D.3 of Appendix J to 10 CFR Part 50 states that Type C tests shall be performed during each reactor shutdown for refueling but in no case at intervals greater than 2 years. Type C tests are tests intended to measure containment isolation valve leakage rates.

III

By letter dated May 25, 1995, Houston Lighting & Power (HL&P) requested relief from the requirement to perform Type C tests during each reactor shutdown for refueling. HL&P proposes to perform the required Type C tests while the plant is at power.

The licensee's request cites the special circumstances of 10 CFR 50.12,

paragraph (a)(2)(ii), as the basis for the exemption. The licensee states that the underlying purpose of the rule is to assure that adequate testing is done to assure containment integrity. The licensee's view is that from the standpoint of testing adequacy, *when* the testing is performed is not relevant because the conditions of testing are the same regardless of when it is performed. Taking credit for testing performed during power operation provides the same degree of assurance of containment integrity as taking credit for testing performed during shutdown. Therefore, consistent with 10 CFR 50.12, paragraph (a)(2)(ii), the licensee proposes that application of the regulation in this particular circumstance is not necessary to achieve the underlying purpose of the rule.

IV

Section III.D.3 of Appendix J to 10 CFR Part 50 states that Type C tests shall be performed during each reactor shutdown for refueling but in no case at intervals greater than 2 years. The licensee proposes an exemption to this section to perform the required Type C tests while the plant is at power.

The Commission has determined that pursuant to 10 CFR 50.12(a)(1) that this exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. The Commission further determines that special circumstances, as provided in 10 CFR 50.12(a)(2)(ii), are present justifying the exemption; namely, that application of the regulation in this particular circumstance is not necessary to achieve the underlying purpose of the rule.

The NRC staff has reviewed the basis and supporting information provided by the licensee in the exemption request. The staff agrees with the licensee's views provided above. In addition, the NRC staff position is that the focus of Section III.D.3 of Appendix J is on the maximum time period between Type C tests, not the plant's condition when the tests are performed. This position is illustrated in Section III.D.2 of Appendix J regarding Type B tests (for detection of local leakage of containment penetrations), where it states that Type B tests shall be performed during reactor shutdown for refueling, or other convenient intervals, but in no case at intervals greater than 2 years. From a safety standpoint, Type B and Type C tests are the same kinds of tests, performed on somewhat different types of containment isolation barriers; therefore, Type B and Type C tests can be treated similarly. Also, there is no reason to restrict Type C tests to

refueling outages as long as the 2-year maximum interval is not exceeded. Based on the above, the NRC staff finds the basis for the licensee's proposed exemption from the requirement to perform the Type C tests during each reactor shutdown for refueling to be acceptable.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this Exemption will not have a significant impact on the quality of the human environment (60 FR 45171). This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 31st day of August 1995.

For the Nuclear Regulatory Commission.

Jack W. Roe,

*Director, Division of Reactor Projects III/IV,
Office of Nuclear Reactor Regulation.*

[FR Doc. 95-22463 Filed 9-8-95; 8:45 am]

BILLING CODE 7590-01-P

RAILROAD RETIREMENT BOARD

Determination of Quarterly Rate of Excise Tax for Railroad Retirement Supplemental Annuity Program

In accordance with directions in Section 3221(c) of the Railroad Retirement Tax Act (26 U.S.C., Section 3221(c)), the Railroad Retirement Board has determined that the excise tax imposed by such Section 3221(c) on every employer, with respect to having individuals in his employ, for each work-hour for which compensation is paid by such employer for services rendered to him during the quarter beginning October 1, 1995, shall be at the rate of 33 cents.

In accordance with directions in Section 15(a) of the Railroad Retirement Act of 1974, the Railroad Retirement Board has determined that for the quarter beginning October 1, 1995, 36.3 percent of the taxes collected under Sections 3211(b) and 3221(c) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Account and 63.7 percent of the taxes collected under such Sections 3211(b) and 3221(c) plus 100 percent of the taxes collected under Section 3221(d) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Supplemental Account.

Dated: August 29, 1995.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 95-22388 Filed 9-8-95; 8:45 am]

BILLING CODE 7905-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-36181; File No. SR-Amex-95-24]

Self-Regulatory Organizations; American Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change Relating to the Execution of Odd-Lot Market Orders

September 1, 1995.

On June 16, 1995, the American Stock Exchange, Inc. ("Amex" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to amend Amex Rule 205³ to provide for the execution of odd-lot market orders⁴ at a price based upon the Intermarket Trading System ("ITS") best bid or offer, subject to certain conditions as described more fully below.

The proposed rule change was published for comment in the **Federal Register** on July 19, 1995.⁵ No comments were received on the proposal.

The Exchange proposes to amend Amex Rule 205 in order to establish new odd-lot pricing procedures. The Commission initially approved the Exchange's current odd-lot pricing procedures as a pilot program in January 1989⁶ and extended it eleven times since then.⁷ Under the pilot procedures, odd-lot market orders with no qualifying notations are executed at the Amex quotation at the time the order is

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Amex Rule 205 pertains to the manner of executing odd-lot orders.

⁴ An odd-lot market order is an order of less than a unit of trading to buy, sell, or sell short, that carries no further qualifying notations. The normal trading unit, or round-lot, is 100 shares.

⁵ Securities Exchange Act Release No. 35963 (July 12, 1995), 60 FR 37112.

⁶ Securities Exchange Act Release No. 26445 (Jan. 10, 1989), 54 FR 2248 (approving File No. SR-Amex-88-23).

⁷ See Securities Exchange Act Release Nos. 35344 (Feb. 8, 1995), 60 FR 8430 (approving File No. SR-Amex-95-03); 34949 (Nov. 8, 1994), 59 FR 58863 (approving File No. SR-Amex-94-47); 34496 (Aug. 8, 1994), 59 FR 41807 (approving File No. SR-Amex-94-28); 33584 (Feb. 7, 1994), 59 FR 6983 (approving File No. SR-Amex-93-45); 32726 (Aug. 9, 1993), 58 FR 43394 (approving File No. SR-Amex-93-24); 31828 (Feb. 5, 1993), 58 FR 8434 (approving File No. SR-Amex-93-06); 30305 (Jan. 20, 1992), 57 FR 4653 (approving File No. SR-Amex-92-04); 29922 (Nov. 8, 1991), 56 FR 58409 (approving File No. SR-Amex-91-30); 29186 (May 19, 1991), 56 FR 22488 (approving File No. SR-Amex-91-09); 28758 (Jan. 10, 1991), 56 FR 1656 (approving File No. SR-Amex-90-39); 27590 (Jan. 5, 1990), 55 FR 1123 (approving File No. SR-Amex-89-31).